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Written statement* submitted by the Permanent Assembly for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Situation of women in prison

The Permanent Assembly for Human rights (APDH) in association with the National Prisoner Ombudsman (PPN) from Argentina, a national independent institution dedicated since 1993 to the promotion and protection of human rights of people in prison, welcome the report of the special Rapporteur on violence against women, Mrs. Rashida Manjoo, presented to the General Assembly on the occasion of its 68th session[1] in which analyzed the strong link between violence against women and women 's incarceration, whether prior to, during or after incarceration. The signatory institutions endorsed the concerns expressed by the Special Rapporteur in the report and present the following report on the situation of dual vulnerability that women live in Argentine prisons.

The gender perspective of socio-penal system, consisting of informal social controls outside the prison and penal regulations in the formal prison systems, continue to cause a specific and disproportionate harm to women in prison. In recent decades, the accelerated and sustained increase in the female prison population was a phenomenon common to all Latin America. Mostly, this increase is the result of the implementation of a new criminal law policy on drug trafficking crimes. A recent study of PPN[2] addresses the particular situation of women arrested for offenses under the Narcotics Law. They are poor women, coming from marginalized and vulnerable groups, with poorly educated, mostly foreigner which are linked to these crimes as their last resort for subsistence.

The report analyzed the severe impact that imprisonment has on women and their families, highlighting the disproportionality of punishment. In the Federal Penitentiary Service (SPF) the detained female population is 807 women. Within this universe, 63% of them are arrested for crimes related to the Narcotics Law. The disproportion between social damage these crimes represent and the punishment these women are condemned to is enormous, mainly because of the impact loss of liberty has on them and their family members. Therefore, it is necessary to problematize the situation of this group within the punitive system on the basis of the asymmetric relationship between these offenses and penalties.

Most of the women interviewed in that study are single mothers of children under age and are heads of households, even being arrested. In addition, 80.5% reported to be the main breadwinners of their households, thus reaffirming the significance of the impact of the penalty. The stories of women indicate that prior to her arrest, the vast majority was employed in precarious and informal jobs without social security benefits and low levels of education achieved. With regard to the legal situation, the study shows that 82.9% claim to be arrested for the first time and 48.8%[3] are deprived of their liberty as a preventive measure.

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[1] A/68/340.

[2] See annual report, National Prisoner Ombudsman, 2013.

[3] As indicated the group of prison population of the Federal Penitentiary Service dated 19/12/2013, 62.7% of the total female population is arrested as processed.

The high levels of institutional violence suffered by women once they are arrested are a cause for concern. The PPN recorded increasing[4] cases of beatings, ill-treatment and torture by prison guards in 2013. Besides physical violence, women face a much broader phenomenon since the manifestations of the phenomenon unfold in institutional, psychological, sexual and symbolic level.

It is also necessary to point out the inefficient health system of the SPF. Repeated claims of women arrested for non-gynecological care during the first half of 2013, led to a presentation by the PPN[5] in order to make prison authorities actively commit to the implementation of measures that would prevent the death of women of cervix cancer. The reason being the deaths of three women for cervix cancer who were arrested during 2008-2013. Furthermore, the lack of medical care in general is a common reality in women's prisons. This, in a context of unsanitary conditions of detention, results in a high percentage of diseases contracted during the incarceration, which are not treated or are only belatedly. If to this is added mistreatment by medical professionals, a clear picture of violation to the right to health is set[6].

Although the Bangkok Rules promote alternatives to incarceration, especially in cases where there are children who suffer as a direct result of the imprisonment of their mothers; and the house arrest law reform of 2008 (LAW Nº 26.472) extended the circumstances for the granting including women with children under 5, its implementation is still partial and discretionary. The survey conducted by the PPN during 2013 indicates that 49 children are still staying with their mothers in prison. The main causes of denials of requests for house arrest are a matter of concern because of the discriminatory arguments the judiciary uses. If the proposed homes are located in marginal areas or there is no formal worker in their homes, it's probably they will have denied their request for house arrest. Discrimination behind the arguments made by the judiciary on denials of requests, violate the rights of women since they deny the full exercise of motherhood based on their socioeconomic background.

It should be noted the irregular conditions of transfers of mothers with their children. The PPN repeatedly received complaints regarding the means of transport used for transfers, claiming the lack of security, discomfort and the poor conditions of hygiene. In addition, the lack of specific mobile for transporting this group, forces them to share transfers with their children with other detainees and undergo twenty hours of confinement in the mobile. The abuse is exacerbated in cases where long distance transfers are made, thus generating a worsening of the conditions of detention of women and their children. In the case of women, these practices are even more important since they constitute a particular way of abuse and subjugation. Therefore, the PPN made a recommendation[7] addressed to the SPF´s authorities requesting the allocation of a specific mobile for transporting for the above mentioned group.

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[4] During the year 2013 the National Prisoner Ombudsman´s recorded 24 complaints from women victims of abuse and torture.

[5] See recommendation n°795 of July 24, 2013, Annual Report of the National Prisoner Ombudsman 2013.

[6] Center for Legal and Social Studies (CELS), Ministry of Public Defender's Office, National Prisoner Ombudsman. "Women in Prison. The scope of the punishment. "1st Edition. Buenos Aires: siglo Veintiuno Editores, 20112011, pp. 89.

[7] See Recommendation No. 801/PPM/13, Annual Report 2013 of the PPN.

The information referred reveals the dual vulnerability of rights suffered by women in prison in Argentine prisons. In addition to the impact that imprisonment entails, these women face lack of access to health, family breakdown, appalling living conditions and psychological and physical violence by prison agents. All of them irreparable consequences that are disproportionate to the crime committed. In the words of the Special Rapporteur: "There is a growing recognition that most female offenders pose little, if any, risk to society."[8]

In view of the foregoing, the Permanent Assembly for Human Rights and the National Prisoner Ombudsman call on the State to urgently implement measures to ensure the effective realization of human rights of women deprived of their liberty; to reflect on the proportionality of punishment and to establish prison policies that include a gender perspective as established by the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

[8] Report of the Special Rapporteur on violence against women, its causes and consequences, Sixty-eighth session of the General Assembly, A/68/340.